

26 April 1972

MEMORANDUM FOR: Deputy Director for Plans
Deputy Director for Intelligence
Deputy Director for Support
Deputy Director for Science & Technology
Deputy to the Director, Intelligence
Community
Legislative Counsel
Inspector General
Director of National Estimates

SUBJECT: Victor L. Marchetti Case

1. Attached is a copy of an order entered by the Circuit Court of Appeals in the Victor L. Marchetti case. The main point dealt with is the availability to witnesses of the classified sealed exhibit. Mr. Marchetti's counsel did not want to furnish names of prospective witnesses to the Department of Justice or to the Central Intelligence Agency for clearance. However, the court ordered him to do so on the understanding that CIA would not in any way contact such witnesses or in any way try to influence them.

2. It is most important that we comply with this injunction. It is probable that counsel for Mr. Marchetti, Mr. Melvin Wulf, will approach one or more former Agency employees, and if so we can expect such former employees to contact someone in the Agency. If any such call is received and the caller identifies himself as a prospective witness, he should be told that we cannot discuss any aspect of the case with him and not to be further in touch with the Agency in view of specific direction to that effect by the court.

STAT

LAWRENCE R. HOUSTON
General Counsel

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No.

VICTOR L. MARCHETTI,

Petitioner,

versus

HONORABLE ALBERT V. BRYAN, JR.,
UNITED STATES DISTRICT JUDGE,

Respondent.

No.

UNITED STATES OF AMERICA,

Appellee,

versus

VICTOR L. MARCHETTI,

Appellant.

ORDER

Upon consideration of the petition to
take an interlocutory appeal from the order of the

district judge refusing to dissolve the temporary restraining order, the petition is denied.

The purported direct appeal from the granting of the temporary restraining order and from from the refusal to dissolve it is dismissed for want of jurisdiction.

On the petition for a writ of mandamus or prohibition, it was represented in open court by counsel for the United States that he would inform top officials of the Central Intelligence Agency that he had represented to the Court that they would not contact any prospective witness, the name of whom was submitted by counsel for Mr. Marchetti for security clearance, in an attempt to dissuade the prospective witness from appearing as a witness. On the basis of that representation, it is now

ORDERED that all officials of the Central Intelligence Agency and the Executive Branch of the government of the United States be, and they hereby are, enjoined from contacting any prospective witness whose name has been submitted for security clearance in an effort to dissuade the prospective witness from acting as such or to influence his testimony.

Should security clearance be denied to any prospective witness whose name may be submitted, the district judge may hold a hearing in camera for the purpose of deciding whether denial of clearance

to that prospective witness was arbitrary, capricious or unreasonable. He shall conduct such a hearing if the interests of fairness require it.

All witnesses who receive security clearance either by action of the Executive Branch or by decision of the district judge may see the exhibits that have been sealed, for the purpose of preparation of their testimony, and are enjoined by this Court from disclosing any matter contained therein except with the permission of the district judge.

Nothing in this order shall restrict the right of the district judge to conduct a hearing, in whole or in part, in camera, to the extent that protection of classified information may appear to require it.

Except as herein provided, the petition for a writ of mandamus or prohibition is denied.

Charles F. Lammey Jr.
Chief Judge, Fourth Circuit

Harrison E. Wible
United States Circuit Judge

W. Baer T. C. Gardner
United States Circuit Judge

April 26, 1972

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OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS		DATE	INITIALS
1	Legislative Counsel			
2				
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	ACTION	DIRECT REPLY	PREPARE REPLY	
	APPROVAL	DISPATCH	RECOMMENDATION	
	COMMENT	FILE	RETURN	
	CONCURRENCE	INFORMATION	SIGNATURE	

Remarks:

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.	DATE
General Counsel	4/26/72

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